



**Testimony of J. Kurt Luger, Executive Director
Great Plains Indian Gaming Association**

**Before the Senate Committee on Indian Affairs
July 27, 2011**

**Oversight Hearing on Enforcing the Indian Gaming
Regulatory Act-The Role of the National Indian Gaming
Commission and Tribes as Regulators**

Good Morning, Chairman Akaka and Members of the Committee. Thank you for inviting me to testify this morning.

My name is Kurt Luger and I am a member of the Cheyenne River Sioux Tribe. I grew up on the Standing Rock Sioux reservation in North Dakota on my family ranch and my family operates a grocery store and small business in Fort Yates, North Dakota.

I serve as the Executive Director of the Great Plains Indian Gaming Association which covers North Dakota, South Dakota, Nebraska, Iowa, Kansas, Wyoming, and Montana. GPIGA was in 1997, and we have 289 Tribes as Members. Together these tribal nations exercise jurisdiction over fifteen (15) million acres of federal trust land.

At GPIGA, our mission is to bring together the federally recognized Indian Nations in the Great Plains Region who are operating gaming enterprises in a spirit of cooperation to develop common strategies and positions concerning issues affecting all gaming tribes; to promote tribal economic development and its positive impacts within the Great Plains; to provide pertinent and contemporary information for the benefit of the GPIGA member nations; to draw upon the unique status of those Great Plains Indian Nations which have treaties between themselves and the United States; and to provide our Member Tribes with information about national legislation and issues affecting tribal economic development.

The National Indian Gaming Commission was established to assist Indian tribes with the regulation of Indian gaming. Under IGRA, tribal gaming regulators are the primary day-to-day regulators of Indian gaming and they regulate Indian gaming under tribal gaming ordinances, which are approved by the NIGC provided that they conform to minimum federal statutory standards.

It bears repeating that tribal regulators are the primary regulators of Indian gaming. In North Dakota for example, tribal governments employ more than 325 tribal regulators and staff. Tribal governments spend more than \$7.4 million on tribal and state regulation of Indian gaming in North Dakota. That's \$1.48 million per tribal government and we run relatively modest operations. In the future, our tribal government's regulatory efforts and expenditures need to be recognized to provide an accurate overall picture of regulatory expenditures in Indian country.

Naturally, we are concerned about the manner in which the NIGC approaches its mission to assist tribes in regulating Indian gaming. Under the previous administration we found an uncooperative environment and often Tribes were left with the impression the NIGC had chosen to write regulations without tribal input. In addition, we were concerned with the lack of training and technical assistance on those regulations to Indian tribes and tribal regulators. Under the current NIGC Commission chaired by the Honorable Tracie Stevens, the atmosphere is one of greater cooperation and understanding of the role of the Tribal gaming commissions. The current Commission has improved the relationship between our tribal gaming industry and the federal regulatory authority. They have taken sincere steps to improve government to government relationships with our tribal nations through the implementation of a real tribal consultation policy. The current Commission has complied with *Indian Educators Federation v. Kempthorne*, which ruled that Indian preference in hiring applied to all "positions in the Department of the Interior, whether within or without the Bureau of Indian Affairs, that directly and primarily relate to providing services to Indians..."

The current Commission has taken great strides to strengthen the United States' government-to-government relationships with Indian tribes. In 2000, President Clinton issued Executive Order No. 13175, which directed Federal agencies to consult and coordinate with Indian tribes on Federal rulemaking and agency actions that had substantial direct impacts on tribal self-government, tribal lands and treaty rights. The Executive Order provided that agencies shall adhere to the following criteria:

- Respect for tribal self-government and sovereignty, treaty and other rights that arise from the Federal trust relationship;
- Provide tribes with the maximum administrative discretion possible; and
- Encourage tribes to develop their own policies to achieve objectives, defer to tribal standards where possible, and otherwise preserve the prerogative authority of Indian tribes.

The Executive Order also directed Federal agencies to consider the need for the regulation in light of tribal interests, take tribal concerns into account, and use consensual mechanisms for decision-making, including negotiated rulemaking, where appropriate. On September 23, 2004, President Bush issued an Executive Memorandum directing Federal agencies to adhere to Executive Order 13175. On November 5, 2009 President Obama signed a memorandum which directed each agency head to submit a detailed plan of how they would implement the policies and directives of Executive Order 13175. With the current Commission's extensive consultation schedule the Federal-Tribal government to government relationship has become more meaningful.

In closing, we encourage the NIGC to continue the direction of cooperation and mutual respect for our tribal economic development ventures.